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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/707,406

12/11/2003

Robert G. Rebeck

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1405

27144 7590 02/05/2007  
FOSTER, SWIFT, COLLINS & SMITH, P.C.  
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LANSING, MI 48933

EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/707,406

Applicant(s)

REBECK, ROBERT G.

Examiner

Chi Q. Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office action is in response to the applicant's patent application filed on 12/11/2003.

#### ***Claim Objections***

Claims 1-11 are objected to because of the following informalities: in line 9 of claim 1, applicant is advised to delete parenthesis. Appropriate correction is required. Depending claims 2-11 also objected since they depend upon the objected claim 1.

Claims 12-19 are objected to because of the following informalities: in line 11 of claim 12, the citation "and an" should read --and a--. Appropriate correction is required.

Claims 13-19 are also objected since they depend upon the objected claim 1.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 4, the phrase "may be" cited in line 4 renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9-13, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 1,889,760 to Peters.

Claim 1:

Peters discloses a shelter comprising a housing comprising a rear wall 2, a first side wall 1, and a second side wall 3, a roof member 7 pivotally connected to a top edge of said housing, at least one pivoting panel 4 connected to at least one of said side walls, and wherein said at least one pivoting panel is moveable between a first open position and a second closed position (Fig. 1).

Claim 2:

Wherein said roof member 7 is moveable between a first position and a second position.

Claim 3:

Further comprising a platform 6 configured to attach to the housing whereby the shelter is secured.

Claims 4-5:

Wherein said roof member is held in said first position by at least one support member 9.

Claim 6:

Further comprising at least one accessory e.g. hooks 18.

Claim 7:

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Further comprising a handle 16 attached to said roof member (see col. 2, lines 4-11).

Claim 10:

Wherein said pivoting panel comprises a first section 3 and a second section 4 substantially perpendicular to said first section.

Claim 11:

Wherein said first section and said second section are pivotally connected.

Claims 12-13:

Peters discloses a shelter comprising a rear wall 2, a first side wall 1, and a second side wall 3 connected to opposing ends of said rear wall, a roof member 7 pivotally connected to a top edge of said rear wall, at least one pivoting panel connected to at least one of said side walls, and wherein said at least one pivoting panel is moveable between a first position and a second position and said roof member is moveable between a first position and a second position (Fig. 1).

Claim 15:

Further comprising a handle 16 attached to said roof member (see col. 2, lines 4-11).

Claim 17:

Further comprising at least one accessory item 19 mounted to an interior surface of the shelter.

Claim 18:

Wherein said first and second pivoting panels comprises a first section 3 and a second section 4 substantially perpendicular to said first section.

Claim 19:

Wherein said first section and said second sections are pivotally connected.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 1,889,760 to Peters.

Claim 14:

Peters discloses the basic structures for a shelter as stated and further including a support member 9 connected the roof member 7 to the rear wall 2 (Fig. 1). However, Peters does not specifically disclose a support member that connected a roof member to one of sidewalls. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a support member connected to a sidewall, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Claims 8-9, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. 1,889,760 to Peters in view of US Pat. No. 6,058,658 to Dunn.

Claims 8-9 and 16:

Peters discloses the basic structures for a shelter as stated but does not disclose a pull cord connected to a handle and to a roof member. Dunn discloses a barbecue grill cover 700 shown in Fig. 15 is provided with one handle 702 through which a rope or cord may be threaded so that the cover may be tied down to a deck (see col. 4, lines 46-49). At the time of the invention was made it would have been obvious to one having an ordinary skill in the art to have a pull cord connected to a handle and a cover for more securement to the cover when it not in uses.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached at (571) 272-6842.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at (866) 217-9197.

*ca*  
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1/25/2007

*Basil Keller 2/1/07*  
*PASL/KELLS*  
*CA/MR 3635*